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COMMITTEE OF PRIVILEGES

(SIXTH LOK SABHA)

SECOND REPORT

1 MAR 1978

(Presented on the 28th February, 1978)

LOK SABHA SECRETARIAT
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PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(1977-78)

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Shri P. G. Mavalankar
8. Shri R. Mohanarangam
9. Dr. V. A. Seyid Muhammed
10. Shri Narsingh
11. Shri Narendra P. Nathwani
12. Shri Meetha Lal Patel
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14. Shri Madhav Prasad Tripathi
15. Shri Ravindra Varma

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

SECOND REPORT OF THE COMMITTEE OF PRIVILEGES (SIXTH LOK SABHA)

I. Introduction and procedure

I, the Chairman of the Committee of Privileges, having been authorised by the Committee to submit the report on their behalf, present this their Second, Report to the House on the question of privilege raised[1] by Shri Gauri Shankar Rai, M.P., against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement[2] containing reflections on, and attributing motives to, the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements[3] made by him in Lok Sabha on the 13th and 14th July, 1977

The matter was referred[4] to the Committee by the Deputy Speaker in the House on the 18th July, 1977, under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha.

2. The Committee held ten sittings. The relevant minutes of these sittings form part of the Report and are appended hereto.

3. At their first sitting held on the 9th August, 1977, the Committee decided that Shrimati Indira Gandhi might be asked, in the first instance, to state what she might have to say in the matter for the consideration of the Committee by the 31st August, 1977, at the latest.

4. At their second sitting held on the 12th September, 1977, the Committee agreed to the request of Shrimati Indira Gandhi for extension of time by three weeks to send her reply, that is, up to the 21st September, 1977.

5. At their third sitting held on the 3rd October, 1977, the Chairman apprised the Committee of the contents of the letter[5] dated the 16th September 1977, received from Shrimati Indira Gandhi explaining her position on the question of privilege raised against her.

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[1]L. S. Deb., dt. 16-7-1977, cc. 2—4.

[2]*See* Appendix I.

[3]L. S. Deb., dt. 13-7-1977, cc. 349—51 and dt. 14-7-1977, cc. 165—77.

[4]L. S. Deb., dt. 18-7-1977, cc. 223—29.

[5]*See* Appendix II.

The Committee decided to give an opportunity to Shri Gauri Shankar Rai, M.P., as requested by him, to appear before the Committee in person and to place his views before them on the question of privilege raised by him in the House against Shrimati Indira Gandhi.

6. At their fourth sitting held on the 13th October, 1977, the Committee examined Shri Gauri Shankar Rai, M. P., and heard his views on the matter.

7. At their fifth, sixth and seventh sittings held on the 29th and 31st October and 29th November, 1977, the Committee deliberated on the matter.

At their sitting held on the 29th November, 1977 the Committee decided that a letter might be addressed by the Chairman to Shrimati Indira Gandhi stating that before taking any decision, the Committee desired to know whether she would like to meet the Committee personally to elucidate or to say anything further on the matter and that, if she so desired, she might meet the Committee on the 24th December, 1977.

8. At their eighth sitting held on the 24th December, 1977, the Committee perused the letter[6] dated the 12th December, 1977, received from Shrimati Indira Gandhi in response to the Chairman's letter to her. The Committee then deliberated on the matter.

9. At their ninth sitting held on the 6th January, 1978, the Committee deliberated further on the matter and arrived at their conclusions.

10. At their tenth sitting held on the 24th January, 1978, the Committee considered their draft Report and adopted it.

II. Facts of the case

11. On the 16th July, 1977, Shri Gauri Shankar Rai, M.P., sought to raise[7] a question of privilege against Shrimati Indira Gandhi, former Prime Minister of India, for issuing a press statement[8] reported in the *Hindustan Times* dated the 16th July, 1977, containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements[9] made by him in Lok Sabha on the 13th and 14th July, 1977 about the thinking of the previous Government during emergency to kill top opposition leaders in jail.

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[6]See Appendix III.

[7]L. S. Ded., dt. 16-7-1977, cc. 2—4.

[8]See Appendix I.

[9]L. S. Deb., dt. 13-7-1977, cc. 349—51 and dt. 14-7-1977, cc. 165—77.

12. The impugned press statement[10] of Shrimati Indira Gandhi read *inter alia* as follows:

> 'However, I find that some leaders of the Janata Party Government are determined to pursue their smear campaign of character assassination inside and outside Parliament so as to denigrate not only me but the Congress Party as a whole. The Home Minister's recent statement about an alleged plan (or "thinking") in my Government to shoot down leaders of the Opposition in jail is shocking and pre-posterous and has no basis whatsoever. This is the very limit in malicious propaganda deliberately carried on by some leaders of the Janata Party. It is difficult to see how anyone could rationally jump to such a wild conclusion on the basis of the theoretical and hypothetical arguments advanced by Mr. Niren De in the Supreme Court to the consequences following from the presidential orders under Article 359. Nothing of this nature was remotely contemplated. The whole idea is outrageous and could occur only to one who himself thinks along these lines. It is one more instance of the type of misrepresentation and insinuation which are current these days. In fact, Mr. Jayaprakash Narain, Mr. Vajpayee, Mr. Charan Singh himself and other prominent leaders were allowed out on parole on information of ill health."

13. While raising the matter in the House Shri Gauri Shankar Rai, M.P., stated[11] *inter alia* as follows:—

> "Shrimati Indira Gandhi, ex-Prime Minister in a statement to the Press which is published today has commented on the speech of the hon. Home Minister inside the House in a most contemptuous manner and has insinuated the House. She has imputed motives also. It is a clear breach of privilege and contempt of the House because contempt of a member of the House is contempt of the House itself.

In her statement she has said:

> 'However, I find that some leaders of the Janata Party Government are determined to pursue their smear campaign of character assassination inside and outside Parliament

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[10]*See* Appendix I.

[11]L. S. Deb., dt. 16-7-1977, cc. 2—4.

so as to denigrate not only me but the Congress Party as a whole. The Home Minister's recent statement about an alleged plan (or thinking) in my Government to shoot down leaders of the Opposition in jail is shocking and pre-posterous and has no basis whatsoever. This is the very limit in malicious propaganda deliberately carried on by some leaders of the Janata Party'.

In another place she says:

'The whole idea is outrageous and could occur only to one who himself is thinking along these lines. It is one more instance of the type of misrepresentation and insinuation which are current these days'."

14. The Deputy Speaker, who was in the Chair, observed[12] that he would give his ruling on the matter on Monday, the 18th July, 1977.

15. On the 18th July, 1977, the Deputy Speaker, who was in the Chair, informed[13] the House that he was referring the matter to the Committee of Privileges under Rule 227 of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

16. On the 13th July, 1977, during the discussion on the Demands for Grants of the Ministry of Home Affairs, the Minister of Home Affairs (Shri Charan Singh) had stated[14] *inter alia* as follows:—

"पांचवीं चीज है डैमोक्रेसी के मुताल्लिक। डैमोक्रेसी को इरोड करने की, खत्म करने की, कितनी कोशिश की ? 72 हजार आदमी डी आई आर के अन्दर डाल दिए और 35 हजार आदमी मीसा के तहत इस बीच में डाल दिये गये। अंग्रेज के जमाने में सन 42 में जो उस वक्त के मिस्टर क्रेग या कौन थ होम सेक्रेटरी, उनके बयान के मुताबिक केवल 60 हजार जेल गये। अब 1 लाख 7 हजार गये। क्या कसूर किया था इन लोगों ने ? हो सकता है मुझ से कोई कसूर हो गया हो, लेकिन जय प्रकाश जी ने क्या कसूर किया था, उस सात साल की बच्ची का क्या कसूर था, जिसका जिक्र सुब्रह्मण्यम स्वामी जी ने किया, उस पर आपको अफसोस नहीं हुआ, किसी की इतनी मॉरल करेज नहीं हुई, जो यह कहता कि यह गलत हुआ, उस पर भी आप यह कहते हैं कि कुछ नहीं हुआ।

इस मुल्क को स्लेव बनाकर रख दिया गया था। स्लेव और की सिटिजन में क्या फर्क है ? स्वतंत्र नागरिक के कुछ अधिकार होते है, जो सरकार के जरिये से एन्फोर्स किये जाते हैं, लेकिन आप ने तो—दूसरे फण्डामेन्टल राइट्स की बात तो छोड़ दीजिये—राइट-टू-लिव जीने के अधिकार को भी सस्पेण्ड कर दिया था। यह बात मैं नहीं कह रहा हूं—आपके

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[12]L. S. Deb., dt. 16-7-1977, cc. 2—4.
[13]L. S. Deb., dt. 18-7-1977, cc. 223—29.
[14]L. S. Deb., dt. 13-7-1977, cc. 349—51.

एटार्नी जैनरल ने कहा था। आप नवम्बर, 1975 के अखबारों को निकाल कर देख लीजिये। जब हम लोगों की तरफ से हैबियस कार्पस की एप्लीकेशन दी गई और हमारी तरफ से नामी-गरामी वकील पेश हुए, तब नीरेन डे साहब ने कहा था--

Today, under the law as it stands, nobody in this country has even the right to live.

फिर भी आप कहना चाहते हैं कि उस वक्त डैमोक्रेसी थी.....अगर लोग यहां जिन्दा थे तो अधिकार के तौर पर जिन्दा नहीं थे, श्रीमती जी की नजरे-इनायत के तौर पर जिन्दा थे। तैयारियां हो रही थीं उस दिन की कि चन्द आदमियों को शूट कर दिया जाय, जैसे ढाका की जेल में शूट कर दिये गये थे। जरूरत पड़े तो जय प्रकाशजी से लेकर सब को शूट कर देने का विचार था।"

[*Translation*—

"Yet another contribution of the Congress is erosion of democracy. As many as 72,000 people were imprisoned under D.I.R. and 35,000 under MISA. During the British rule, according to the then Home Secretary—it was perhaps Mr. Craig—only 60,000 were sent to jails. Their number now is 1 lakh 7 thousand. What was their fault? May be I had done some wrong. But what had Jayaprakashji done? What was the fault of the 7 year old girl a reference to whom was made by Dr. Subramanyam Swamy? None of them had the moral courage to say that it was wrong.

The country had been reduced to slavery. The difference between a free citizen and a slave is that the former has certain rights which are enforced through the Government. But the Congress Government had suspended—let alone the fundamental rights—even the right to live. This is what their Attorney General had said. You can find it in the newspapers of Nov. 1975. When we gave an application of *habeas corpus* and leading lawyers appeared in the court on our behalf, this is what Shri Niren De said:

'To-day, under the law as it stands, nobody in this country has even the right to live.'

Even then they say that there was democracy at that time....If people here were alive, it was not as a matter of right but it was because of the mercy of Shrimatiji. They were preparing for the day when certain people might be shot down as was done in the Dacca Jail. The thinking (*vichar*) was to shoot certain persons right from Jayaprakashji, if necessary."]

At this stage Dr. Karan Singh, M.P., interrupted the Minister of Home Affairs and requested him to clarify his above statement. Thereupon, the Minister of Home Affairs stated *inter alia* as follows:

"मैंने प्रपोजल नहीं कहा है, मैंने कहा है--विचार था । उनके यहां अगर कोई प्रपोजल भी होता था तो वह आप के नाटिस में नहीं आती थी । जब एमर्जेन्सी जारी की गई, तो क्या आप से पूछ कर जारी की गई थी, यह उनके मन का विचार था, अगर प्रपोजल भी होता तो उसको करने के बाद ---मैं आप को यकीन दिलाता हूं---आप सब उसको एप्रूव कर देते । मैं, उपाध्यक्ष महोदय, आप के जरिए जानना चाहता हूं---राइट टू लिव को सस्पैण्ड करने की क्या मंशा थी । पुलिस जो क्राइम कर रही थी, किस के लिये कर रही थी । जब आप के एटार्नी जनरल ने इस बात को माना कि इस अधिकार को खत्म कर दिया गया है, तब भी आप में से किसी को यह ख्याल नहीं रहा कि वह कहता कि कम से कम इस राइट को रेस्टोर कर दिया जाय । मैं अनुमान करता हूं कि उन का विचार यह था । मैंने यह नहीं कहा कि प्रपोजल था ।"

[*Translation*—

"I have not said that there was a proposal. I said there was thinking (*vichar*). But even if there was any proposal, it would not have come to your notice and I am sure you all would have approved of it after it had been implemented, as was done in the case of the proclamation of emergency. The right to live had been suspended and the police was committing crimes. Your Attorney General himself admitted that the right to live had been suspended and yet nobody from among you dared to speak for its restoration. I feel this was their thinking. I did not say that there was a proposal."

17. On the 14th July, 1977, when Shri Y. B. Chavan, M.P., Leader of the Opposition, raised[15] the matter under Rule 377 of the Rules of Procedure and Conduct of Business in Lok Sabha, regarding the statement made by the Minister of Home Affairs in Lok Sabha on the 13th July, 1977 during the reply to the discussion on the Demands for Grants of the Ministry of Home Affairs about the thinking of the previous Government during emergency to kill top opposition leaders in jail, the Minister of Home Affairs clarified the position and stated[16] *inter alia* as follows:—

"..अध्यक्ष महोदय, मैंने यह कहा था कि तैयारियां इस बात की हो रही थीं—अगर जरूरत पड़े तो शूट कर दिया जाये, जेल में लीडर्स को—ये मेरे लफ्ज हैं । तो अगर जरूरत पड़े तो शूट कर दिया जाय, उसकी तैयारियां हो रही थी---राइट टू लिव सस्पैण्ड कर

[15]L. S. Deb., dt. 14-7-1977, cc. 165—77.

[16]*Ibid.*

देना उस की तैयारी थी। मैं यह जानना चाहता हूं—जीने का अधिकार किस लिये सस्पैण्ड किया गया? अखबारों का राइट .....राइट आफ असैम्बली, राइट आफ़ स्पीच –ये सस्पैण्ड कर दिये, बात समझ में आई कि अखबारों में आप के खिलाफ़ कुछ न कहा जा सके, जबानी भी कुछ न कहा जा सके। और भी अधिकार सस्पैण्ड किये गये, लेकिन जीने का अधिकार भी क्यों सस्पैण्ड किया गया, आज तक ऐसा नहीं हुआ। सिवाय इसलिये कि वह एक तैयारी थी कि जब जरूरत पड़े तो डाका की तरह से रिपिटीशन यहां किया जाय—बस यही मेरा जवाब है। मैंने खुद यह कहा है—कोई प्रपोजल था, यह मैंने नहीं कहा है, विचार था, थिंकिंग थी, उसी की यह तैयारी थी। तो तैयारी का मतलब यह नहीं था कि पुलिस को आर्डर्ज दे दिये गये थे, फौज बुला ली गई थी या आप से मशविरा किया गया था या राईटिंग में कोई स्कोम बनी थी। उसकी पहली चीज है—राइट टु लिव सस्पैण्ड करो, everything else, if necessary, will follow.

* * * * *

श्री नीरेन डे ने जो एटार्नी जनरल थे, गवर्नमेंट का लाइयर था, उसने नवम्बर में सुप्रीम कोर्ट में यह कहा कि आज हिन्दुस्तान के किसी व्यक्ति को जीने का अधिकार नहीं है। यह प्रेजोडेंट के आर्डिनेंस का इन्टरप्रीटेशन करते हुए उन्होंने कहा। अगर यह बात नहीं थी तो गवर्नमेंट की तरफ से यह कम्युनिक जारी होना चाहिये था कि यह गलत है।.....

दूसरी बात यह है कि गवर्नमेंट जब भी कोई काम करती है तो उसके लिये एक अलग कानून बनाती है। कोई तैयारी करती है तो कानून बनाती है। हम करप्शन को मिटाना चाहते हैं उसके लिये लोकपाल बिल ला रहे हैं। और भी जितने बिल लाते हैं वह किसी काम को करने के लिए तैयारी होती है। तो आपने आर्डिनस जारी करके तैयारी कर ली कि अगर जरूरत पड़े तो शूटिंग भी कर दी जाय।....."

[*Translation*—

"....Mr. Speaker, what I said was that preparations were being made for this—if the need arose, to shoot down the leaders in jail (*Agar zaroorat pade to shoot kar diya jaye, jail mein leaders ko*)—these were my words. If the need arose, to shoot down—for this—preparations were being made—to suspend the right to live was preparation for this. I want to know this—why was the right to live suspended? The right of newspapers..... the right of assembly, the right of speech—these were suspended. One can understand that it should not be possible to write anything against you in the newspapers, that it should not be possible to say anything verbally also. Other rights were also suspended. But why was the right to live suspended? It has never happened

before. What did it mean, except that it was a preparation, if need be, for repetition here, of what, happened in Dacca? That is my only answer. I have said only this. I did not say that there was any proposal. There was thinking (*vichar*) and it was a preparation for that. Preparation did not mean that orders had been given to the police or army had been called or you were consulted or any scheme was prepared in writing. The first step towards that was—suspend the right to live, everything else, if necessary, will follow....

* * * * *

Shri Niren De, who was the Government's lawyer, said in the Supreme Court in November that nobody in India had the right to live at that time. This he said while interpreting President's Ordinance. If it was not so, a communique should have been issued by the Government that this was wrong.....

Secondly, whenever the Government does something, a separate law is framed for that purpose. Some preparation is made and then the law is framed. We want to remove corruption. For that, we are bringing the Lokpal Bill. Whatever Bills are brought forward, that is a preparation for doing something. So, by issuing an Ordinance, you made the preparation for shooting also if it became necessary....."]

III. Findings of the Committee

18. Shrimati Indira Gandhi, who was asked by the Committee to state what she might have to say for the consideration of the Committee, in her reply dated the 16th September, 1977, stated as follows:

"At the sitting of the Lok Sabha on July 13, 1977, the Home Minister made a very serious allegation that there was a plan (*Vichar*) during the Emergency to shoot down top leaders of the Opposition. This allegation received wide and prominent publicity both in the Press and through other media. On the following day, the Leader of the Congress Party in the Lok Sabha (Leader of the Opposition), who was a senior colleague of mine in the previous Government, raised the matter in the House and drew attention to what he described as 'tendentious and malicious' nature of the Home Minister's statement. He

further submitted that 'such statements are made only with a view to bring our party into disrepute', and made an appeal to the Prime Minister and the Home Minister to substantiate it if they had got any evidence, or to kindly withdraw it. The Home Minister however reiterated the statement made by him on the previous day.

Keeping in view the great harm and damage the Home Minister's allegation was likely to cause to the integrity of the Government which I had the honour to lead as Prime Minister, I felt that I owed a duty to tell the public that the allegation had no basis whatsoever. This became all the more necessary in the context of the stand taken by the Home Minister even after Shri Chavan, the Leader of the Opposition, had raised that in the House.

In making the public statement, which has been made the subject-matter of the privilege notice, I would submit that it was never my intention to show any disrespect to the Lok Sabha or to any of its members nor to cast any aspersions or insinuation. My statement came out of a genuine feeling of anguish and deep conviction that what I was stating was the truth and if such serious allegations are made in Parliament and they go un-controverted, they may tend to denigrate and destroy our political system and democratic functioning. I would like to assure the Committee, and through it the House, that I did not mean any words or expressions used in my statement to cause an affront to the dignity and respect due to the Lok Sabha or to any of its members. I have had the honour to be a member of Parliament for over 12 years, and, of these, I was the Leader of the Lok Sabha for 10 years. Throughout this period, it has been my endeavour at all times to uphold the high dignity and prestige of Parliament and the rights and privileges of its members. My respect and esteem for Parliament and Parliamentary functioning will always remain a most cherished possession in my public life."

19. The Committee gave a careful consideration to the position stated by Shrimati Indira Gandhi in her letter dated the 16th September, 1977. The Committee were not, however, quite satisfied with the explanation given by her in her aforesaid letter. The Committee, therefore, decided that before taking any decision on the matter, she might be given an opportunity to appear before the Com-

mittee personally to elucidate or to say anything further on the matter, if she so desired.

20. In response to the Chairman's letter to her, Shrimati Indira Gandhi, in her letter dated the 12th December, 1977, stated as follows:—

> "I thank you and the Committee for having provided me with an opportunity of explaining my case. However, owing to prior commitment, I am unable to avail of it.
>
> I need hardly assure you that I did not mean any disrespect for Parliament by my impugned statement. As I have stated earlier I have too deep a respect for this great institution, of which I have had the privilege of being a member for a number of years, to say anything in disparagement of it."

21. The Committee consider it unfortunate that Shrimati Indira Gandhi, in her impugned Press statement issued on the 15th July, 1977, should have referred to Parliament while alleging a "smear campaign of character assassination inside....Parliament...." It is also regrettable that she attributed motives to the Home Minister by referring to his statement in Lok Sabha as "This is the very limit in malicious propaganda deliberately carried on".

22. Shrimati Indira Gandhi, in her first written statement dated the 16th September, 1977, submitted to the Committee stated that her impugned Press statement "came out of a genuine feeling of anguish and deep conviction that what I was stating was the truth and if such serious allegations are made in Parliament and they go uncontroverted, they may tend to denigrate and destroy our political system and democratic functioning". She also stated that "I have had the honour to be a member of Parliament for over 12 years, and, of these, I was the Leader of the Lok Sabha for 10 years".

23. The Committee are of the opinion that every citizen has the right of free and fair comment on the proceedings of the House and the statements and speeches of individual members and to deny or controvert any charges made against him or her as well as to clarify his or her position if so involved. But if the language of the comments or criticism casts reflections on, or attributes motives to, a member in respect of his speech or conduct in the House, it would constitute a breach of privilege because of the fact that the Constitution has conferred certain privileges on Members of Parliament in respect of their speeches in the House. If any such comments, exceed the limits of reasonable clarification or justifiable criticism or fair

reply, they would infringe the privileges of the House and its members.

24. The Committee are of the view that in order to safeguard the rights, dignity and authority of the House, it is of utmost importance that a person like Shrimati Indira Gandhi, who enjoyed the highest position of authority in Government and a pre-eminent position in Parliament, should have exercised the greatest restraint in expressing her reaction and views on proceedings of Parliament and the statements or speeches of individual members in the House, howsoever provoked she might have felt by such proceedings or statements.

25. The Committee have carefully considered the import and implications of the remarks quoted in paragraph 21 above from the impugned Press statement of Shrimati Indira Gandhi and are of the opinion that those remarks cast aspersions and attribute motives tending to undermine the dignity and authority of Parliament and thus, strictly construed, they amount to a breach of privilege and contempt of the House.

26. The Committee, however, note that Shrimati Indira Gandhi, in both the written statements submitted by her to the Committee, has disclaimed any "intention to show any disrespect to the Lok Sabha or to any of its members nor to cast any aspersions or insinuation". She has assured the Committee that she did not mean "any disrespect for Parliament by my impugned statement" or "to cause an affront to the dignity and respect due to the Lok Sabha, or to any of its members".

27. However, the Committee do not feel fully satisfied by the explanation of Shrimati Indira Gandhi. They, therefore, deprecate her regrettable remarks referred to in paragraph 21 above as contained in her impugned statement. The Committee further consider it necessary particularly to caution her to be more careful in future in her comments on the proceedings of the House or on speeches of members in the House. Considering, however, the totality of the circumstances of the case, the Committee are of the view that the matter need not be pursued further.

IV. Recommendation of the Committee

28. The Committee recommend that further action in the matter may not be taken by the House and the matter be dropped.

SAMAR GUHA
Chairman,
Committee of Privileges.

NEW DELHI;
The 24th January, 1978.

NOTE BY MEMBERS

We the undersigned have carefully gone through the report which finds that Shrimati Indira Gandhi has committed a breach of privilege and a contempt of the House since her impugned press statement "attributes motives tending to undermine the dignity and authority of the Parliament."

We are constrained to say that we cannot accept or agree with the above finding and the reasoning behind it; without going into details, the reasons for the stand we have taken are given below:—

The principle behind the concepts of Parliamentary privilege and contempt of Parliament is that every Member should be able to discharge his duties as a Member freely and fearlessly so that he can serve the Parliament, his constituency and his country in the most efficient and effective way and the dignity of the Parliament would be maintained. Parliamentary privilege is never intended to be abused for the purpose of making unfounded and irresponsible allegations against individuals, groups or political opponents. As a matter of fact, any member who does so will himself be committing a breach of privilege and a contempt.

The above position is clear from the following passage:—

> "Speeches and actions in Parliament may thus be said to be unquestioned and free. But this freedom from external influence or interference does not involve any unilateral licence" (Anson, Parliament p. 170).

In Lord Arlington's case the King's Bench held:—

> "A Member of Parliament had certainly a right to publish his speech. But that speech should not be made a vehicle of slander against any individual."

Parliamentary Debates (1887) Vol. 311, Col. 286. Debate: dated 22-2-1887).

The above principle is accepted and well established by our Parliament in Shri Umanath's case.

It is well settled that the impugned imputations must be made against a member of the House as such. Imputations against a person as a member or a leader of a political party would not amount to a breach of privilege or contempt. For this proposition we rely on:—

(a) House of Commons Debates (1909) Vol. 5, Col. 415.

(b) Practice and Procedure of Parliament by Kaul and Shakdher at p. 239.

Strong words and exaggerated expression *per se* will not make imputations contempt; (Lok Sabha Debates—proceedings dated 20-4-1960 in Raja Ji's case—col. 12729—34 at 12731). See also Practice and Procedure of Parliament by Kaul and Shakdher at p. 239.

In the impugned statement Mrs. Gandhi has stated "I find that some leaders of the Janata Party Government are determined to pursue their smear campaign of character assassination..... This is the very limit in malicious propaganda deliberately carried on by some leaders of the Janata Party". From this passage it is clear that Mrs. Gandhi was referring to the Home Minister's statement as a statement made by him not as a member of Parliament but as a leader of the Janata Party. The entire impugned statement of Mrs. Gandhi has to be considered and construed in this light.

In view of the above well and long established position the Home Minister's statement "They were preparing for the day when certain people might be shot down as was done in the Dacca Jail The thinking (Vichar) was to shoot down certain persons right from Jayaprakashji if necessary" is so unfounded that it has gone far beyond a Member's right to free speech in the House. In fact, it amounts to an abuse of that right. In this connection, it may be recalled that Shri Y. B. Chavan, Leader of the Opposition, protested against the Home Minister's unfounded allegations in these words, "such statements are made only with a view to bring our party into disrepute". He challenged the Home Minister to substantiate his allegations if he had any evidence or to withdraw his statement. The Home Minister did nothing of the sort; he only reiterated his statement.

In her reply Mrs. Gandhi has clearly stated "In making the public statement....it was never my intention to show any disrespect to the Lok Sabha or to any of its members nor to cast any aspersions or insinuation".

In the light of the above facts and circumstances and the clear position of law we have no hesitation in saying that Shrimati Indira

Gandhi has not committed any breach of privilege or contempt of the House. We, therefore, recommend that no further action be taken in this matter.

In conclusion, we wish to record a word of caution. In the matter of Parliamentary privileges and contempt of Parliament we should not be over sensitive. We should act with restraint. The seriousness of the allegations made by a member while speaking in the House, its nature and the impact which it will make and the harm and prejudice it may cause to the reputation and standing of an individual group or party, the right of every citizen to defend himself and his freedom of speech, expression and association are weighty matters which require serious consideration. Every imputation made has to be examined giving due regard to these factors. Decisions arrived at in utter disregard of these instead of upholding and enhancing the dignity of the House are in the long run likely to damage it and ultimately tend to denigrate our political systems and democratic values.

NEW DELHI;

HITENDRA DESAI
3-2-1978.

V. A. SEYID MUHAMMED
3-2-1978.

O. V. ALAGESAN
10-2-1978.

B. SHANKARANAND
11-2-1978.

MINUTES

I

First Sitting

New Delhi, Tuesday, the 9th August, 1977.

The Committee sat from 11.00 to 12.00 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri H. G. Paranjpe—*Chief Legislative Committee Officer.*

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

2. At the outset the Chairman welcomed the members of the new Committee.

3. The Chairman then informed the Committee that he had received a letter from Shri Ravindra Varma, a member of the Committee, regretting his inability to attend the sitting of the Committee due to his pre-occupation in Rajya Sabha.

4. The Committee discussed generally the procedure to be fol-

lowed by the Committee in dealing with questions of privilege under reference to them.

*** *** ***

6. The Committee then considered the question of privilege raised by Shri Gauri Shankar Rai, M.P., against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

The Committee decided that, in the first instance, Shrimati Indira Gandhi might be asked to state what she might have to say in the matter for consideration by the Committee. The Committee directed that Shrimati Indira Gandhi might be asked to send her written statement so as to reach the Lok Sabha Secretariat by the 31st August, 1977, at the latest.

7. The Committee directed that a note on the law and precedents in India and U.K. relevant to the two cases under consideration of the Committee be prepared and circulated to the Members of the Committee.

8. The Committee also directed that another note regarding the functions of the Committee in general and the implications of the term *prima facie* case of breach of privilege might be prepared and circulated to the members of the Committee in due course.

9. The Committee also desired that a Monograph on Parliamentary Privileges might be prepared and circulated to the Members of the Committee.

10. The Committee decided to hold their next sitting on the 12th September, 1977, at 11.00 hours.

The Committee then adjourned.

***Paragraph 5 relates to another case and has, accordingly been omitted.

II

Second Sitting

New Delhi, Monday, the 12th September, 1977.

The Committee sat from 11.00 to 12.35 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Shri R. Mohanarangam
8. Dr. V. A. Seyid Muhammed
9. Shri Narendra P. Nathwani
10. Shri Meetha Lal Patel
11. Shri B. Shankaranand
12. Shri Madhav Prasad Tripathi
13. Shri Ravindra Varma.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

*** *** ***

3. The Committee then considered the question of privilege raised by Shri Gauri Shankar Rai, M.P., against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977. In this connection, the Committee perused the letter dated the 30th August,

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***Paragraph 2 relates to another case and has accordingly been ommitted.

1977, from Shrimati Indira Gandhi in which she had requested for extension of time by three weeks to enable her to file her reply.

The Committee agreed to the request of Shrimati Indira Gandhi for extension of time by three weeks. The Committee decided that Shrimati Indira Gandhi might be asked to send her reply by the 21st September, 1977.

4. The Committee then perused the letter dated the 2nd September, 1977, from Shri Gauri Shankar Rai, M.P., requesting that he might be given an opportunity to appear before the Committee to explain the position in respect of the question of privilege raised by him in the House against Shrimati Indira Gandhi. The Committee decided that the request of Shri Gauri Shankar Rai might be considered at the appropriate stage after the receipt of the written statement from Shrimati Indira Gandhi.

The Committee did not, however, accede to the request of Shri Gauri Shankar Rai, M.P., that he might be supplied a copy of the written statement that might be submitted to the Committee by Shrimati Indira Gandhi.

The Committee also noted that Shri Gauri Shankar Rai, M.P., had sent another letter dated the 8th September, 1977, giving his views on the merits of the question of privilege raised by him against Shrimati Indira Gandhi. For the present the Committee decided that Shri Gauri Shankar Rai's letter dated the 8th September, 1977 need not be circulated to members of the Committee.

5. The Committee decided to hold their next sitting on the 3rd October, 1977, at 15.00 hours.

The Committee then adjourned.

III

Third Sitting

New Delhi, Monday, the 3rd October, 1977.

The Committee sat from 15.00 to 17.05 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri Krishan Kant
7. Shri P. G. Mavalankar
8. Shri R. Mohanarangam
9. Dr. V. A. Seyid Muhammed
10. Shri Narendra P. Nathwani
11. Shri Meetha Lal Patel
12. Shri B. Shankaranand
13. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

*** *** ***

5. The Committee then considered the question of privilege raised by Shri Gauri Shankar Rai, M.P., agianst Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

***Paragraphs 2 to 4 relate to another case and have, accordingly, been omitted.

6. The Chairman apprised the Committee of the contents of the letter dated the 16th September, 1977, received from Shrimati Indira Gandhi explaining her position on the question of privilege raised against her.

The press statement issued by Shrimati Indira Gandhi, as reported in the *Hindustan Times* dated the 16th July, 1977, which formed the basis of the question of privilege against her, was also read out to the Committee.

7. The Committee then deliberated on the matter and decided to give an opportunity to Shri Gauri Shankar Rai, M.P., as requested by him, to appear before the Committee in person and to place his views before them on the question of privilege raised by him in the House against Shrimati Indira Gandhi.

The Committee directed that Shri Gauri Shankar Rai, M.P., might be requested to appear before the Committee on the 13th October, 1977.

*** *** ***

The Committee then adjourned to meet again on the 13th October, 1977, at 11.00 hours.

***Paragraphs 8 to 10 relate to other cases and have, accordingly, been omitted.

IV

Fourth Sitting

New Delhi, Thursday, the 13th October, 1977.

The Committee sat from 11.00 to 12.35 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Shri R. Mohanarangam
8. Dr. V. A. Seyid Muhammed
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi

SECRETARIAT

Shri K. K. Saxena—*Chief Examiner of Bills and Resolutions.*

WITNESS

Shri Gauri Shankar Rai, M.P.

2. The Committee took up further consideration of the question of privilege raised by Shri Gauri Shankar Rai, M.P., against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

3. Shri Gauri Shankar Rai, M.P., was called in and examined by the Committee.

(*Verbatim record is enclosed*) ~~with Memorandum No. 6.~~)

The witness then withdrew.

4. The Committee decided to hold their next sittings on the 29th and 31st October, 1977, to consider the issue of privilege further.

The Committee then adjourned.

V

Fifth Sitting

New Delhi, Saturday, the 29th October, 1977.

The Committee sat from 16.00 to 17.30 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Shri R. Mohanarangam
8. Dr. V. A. Seyid Muhammed
9. Shri Narsingh
10. Shri Narendra P. Nathwani
11. Shri Meetha Lal Patel
12. Shri B. Shankaranand
13. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

2. The Committee considered the reply of Shrimati Indira Gandhi and other matters related to the question of privilege raised by Shri Gauri Shankar Rai, M.P., against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

3. The deliberations of the Committee were not concluded.

4. *The Committee then adjourned to meet again on the 31st October, 1977, at 15.00 hours to continue their deliberations on the matter.*

VI

Sixth Sitting

New Delhi, Monday, the 31st October, 1977.

The Committee sat from 15.00 to 16.50 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

2. The Committee considered further the reply of Shrimati Indira Gandhi and other matters related to the question of privilege raised by Shri Gauri Shankar Rai, M.P., against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

3. The deliberations of the Committee were not concluded.

4. *The Committee then adjourned to continue their deliberations at their next sitting.*

VII

Seventh Sitting

New Delhi, Tuesday, the 29th November, 1977

The Committee sat from 09.30 to 10.40 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri O. V. Alagesan
3. Shri Hitendra Desai
4. Shri Ram Jethmalani
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narsingh
9. Shri Narendra P. Nathwani
10. Shri Ravindra Varma.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

2. The Committee took up further consideration of the reply of Shrimati Indira Gandhi and other matters related to the question of privilege raised by Shri Gauri Shankar Rai, M.P., against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

The Committee decided that a letter might be addressed by the Chairman to Shrimati Indira Gandhi stating that before taking any decision, the Committee desired to know whether she would like to meet the Committee personally to elucidate or to say anything further on the matter and that, if she so desired, she might meet the Committee on Saturday, the 24th December, 1977, at 11.00 hours.

The Committee decided to meet on the 24th December, 1977, at 11.00 hours and again at 15.00 hours to consider the matter further.

*** *** ***

The Committee then adjourned.

***Paragraph 3 relates to another case and has, accordingly, been omitted.

VIII

Eighth Sitting

New Delhi, Saturday, the 24th December, 1977

The Committee sat from 11.00 to 13.00 hours and again from 15.00 to 16.30 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Shri Narsingh
8. Shri Narendra P. Nathwani
9. Shri B. Shankaranand
10. Shri Ravindra Varma. ..

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

2. The Committee took up further consideration of the question of privilege raised by Shri Gauri Shankar Rai, M.P., against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

3. In this connection, the Committee perused the letter dated the 12th December, 1977, received from Shrimati Indira Gandhi in response to the Chairman's letter to her inquiring whether she would like to appear before the Committee personally to elucidate or say anything further on the matter.

The Committee then deliberated on the matter.

4. The deliberations of the Committee were not concluded.

The Committee then adjourned to continue their deliberations at a subsequent sitting.

IX

Ninth Sitting

New Delhi, Friday, the 6th January, 1978

The Committee sat from 11.00 to 13.15 hours and again from 15.00 to 16.10 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri Hitendra Desai
4. Shri Krishan Kant
5. Shri P. G. Mavalankar
6. Shri R. Mohanarangam
7. Dr. V. A. Seyid Muhammed
8. Shri Narsingh
9. Shri Narendra P. Nathwani
10. Shri Meetha Lal Patel
11. Shri B. Shankaranand
12. Shri Ravindra Varma.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

*** *** ***

7. The Committee then deliberated on the question of privilege against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

8. The Committee arrived at the following conclusions:—

(i) The Committee considered it unfortunate that Shrimati Indira Gandhi, in her impugned Press statement issued on the 15th July, 1977, should have referred to Parliament while alleging a "smear campaign of character assassina-

***Paragraphs 2 to 6 relate other cases and have, accordingly, been omitted.

tion inside.....Parliament....." It is also regrettable that she attributed motives to the Home Minister by referring to his statement in Lok Sabha as "This is the very limit in malicious propaganda deliberately carried on".

(ii) The Committee were of the view that in order to safeguard the rights, dignity and authority of the House, it is of utmost importance that a person like Shrimati Indira Gandhi, who enjoyed the highest position of authority in Government and a pre-eminent position in Parliament, should have exercised the greatest restraint in expressing her reaction and views on proceedings of Parliament and the statements or speeches of individual members in the House, howsoever provoked she might feel by such proceedings or statements.

(iii) The Committee after careful consideration of the import and implications of the remarks quoted in paragraph (i) above from the impugned Press Statement of Shrimati Indira Gandhi were of the opinion that those remarks cast aspersions and attributed motives tending to undermine the dignity and authority of Parliament and thus, strictly construed, they amounted to a breach of privilege and contempt of the House.

(iv) The Committee did not feel fully satisfied by the explanation of Shrimati Indira Gandhi. They, therefore, deprecated her regrettable remarks referred to in para (i) above as contained in her impugned statement. The Committee further considered it necessary particularly to caution her to be more careful in future in her comments on the proceedings of the House or on speeches of members in the House. Considering, however, the totality of the circumstances of the case, the Committee were of the view that the matter need not be pursued further.

Sarvashri Hitendra Desai and B. Shankaranand, however, expressed their dissent from the above conclusions of the Committee.

The Committee decided to recommend to the House that in regard to the above case, further action might not be taken by the House and the matter be dropped.

*** *** ***

12. *The Committee then adjourned to meet again on Tuesday, the 24th January, 1978, at 15.00 hours to consider the matters pending before them.*

***Paragraphs 9 to 11 relate to another case and have accordingly, been omitted.

X

Tenth Sitting

New Delhi, Tuesday, the 24th January, 1978

The Committee sat from 15.00 to 16.20 hours.

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Ram Jethmalani
6. Shri P. G. Mavalankar
7. Dr. V. A. Seyid Muhammed
8. Shri Narendra P. Nathwani
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi
12. Ravindra Varma.

SECRETARIAT

Shri J. R. Kapur—*Chief Legislative Committee Officer.*

2. The Committee considered their draft Second Report on the question of privilege against Shrimati Indira Gandhi, former Prime Minister, for issuing a press statement containing alleged reflections and attributing motives to the Minister of Home Affairs (Shri Charan Singh) in respect of certain statements made by him in Lok Sabha on the 13th and 14th July, 1977.

The Committee adopted the draft Report with the following verbal changes:—

(i) In paragraph 23, the words "as functioning as representatives of the people" and "however" were omitted.

(ii) In paragraph 24, for the word "feel" the words "have felt" were substituted.

3. Some members of the Committee expressed their disagreement with the Report of the Committee. The Committee decided that members who wished to give their separate Notes for being appended to the Report might do so within two weeks (by the 7th February, 1978).£

4. The Committee authorised the Chairman to decide*, whether the evidence of Shri Gauri Shankar Rai, M.P., given before the Committee, might be appended to the Report to be presented to the House during the next Sesion.

*** *** ***

£At their sittings held on the 10th and 11th February, 1978, the Committee permitted Sarvashri O. V. Alage and B. Shankaranand, respectively, to sign the note submitted earlier by Shri Hitendra Desai and Dr. V. A. Seyid Muhammed.

*As decided by the Chairman evidence given before the Committee is appended to the Report under Rule 275(1) of the Rules of Procedure and conduct of Business in Lok Sabha.

***Paragraphs 5 to 10 relate to other cases and have, accordingly, been omitted.

MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE OF PRIVILEGES

Thursday, the 13th October, 1977

PRESENT

Shri Samar Guha—*Chairman.*

MEMBERS

2. Shri Halimuddin Ahmed
3. Shri O. V. Alagesan
4. Shri Hitendra Desai
5. Shri Krishan Kant
6. Shri P. G. Mavalankar
7. Shri R. Mohanarangam
8. Dr. V. A. Seyid Muhammed
9. Shri Meetha Lal Patel
10. Shri B. Shankaranand
11. Shri Madhav Prasad Tripathi.

SECRETARIAT

Shri K. K. Saxena—*Chief Examiner of Bills and Resolutions.*

WITNESS

Shri Gauri Shankar Rai, M. P.

(*The Committee met at 11.00 hours*)

Evidence of Shri Gauri Shankar Rai, M.P.

Mr. Chairman: Shri Rai raised the matter before the House and the Deputy Speaker *suo motu* accepted it.

Shri Rai requested the Committee to give him an opportunity to explain his view point. We will be happy to know the exact points which constitute the breach of privilege. These may be explained to us.

Shri Gauri Shankar Rai: Mr. Chairman, personally I feel this is not very pleasant to say that the House is being reflected on. I am personally of the view that the technical points with regard

to the privileges should be ignored. I am going to explain the points which compelled me to come before the House and before you.

I would like to emphasise that it is nobody's personal cause, no party's cause. It is the cause of the whole House and the dignity of the House. It is not the concern of any individual or any party.

Mr. Chairman, though it may be embarrassing, but I would like to say most humbly, had I moved this privilege motion against my own partyman, I would have been happier because in that situation I would have been in a better position to protect the dignity of this House.

I want to say that democratic form of Government is run by the institution. If democracy is honoured, Members are honoured. Parliament is the most important institution of democratic life. If the prestige and dignity of the Parliament is not kept, then democracy will be there no more. In this connection I would like to quote page 147—Practice and Procedure of Parliament by Shri S.S. More:

> "The two Houses of Parliament must command the respect due to them if they are to discharge their function properly. Hence publication of any book or libel reflecting the proceedings of the Houses is treated as a violation of the rights and privileges of the Houses and constantly punished by both Houses upon the principle that such acts tend to obstruct the House in the performance of their functions by diminishing the respect due to them. Reflections upon Members, particular individuals not being named or otherwise indicated are equivalent to reflections on the Houses."

I do not think it requires any elaboration.

Mr. Chairman: If you want to submit anything in the form of a statement as given in your second letter, you can do that.

Shri Gauri Shankar Rai: I am coming to that.

Shri O. V. Alagesan: We have got that letter. I thought that that was circulated by your office.

Mr. Chairman: I have not circulated this letter.

Shri Gauri Shankar Rai: I have circulated.

Mr. Chairman: It is not the practice of the Privileges Committee. You cannot circulate it. I would ask the Members to ignore it and treat it as if it has not been circulated. This is confidential.

Shri Gauri Shankar Rai: I would like to be enlightened on the subject. There are certain conventions. I have no experience.

Mr. Chairman: The general convention is that everything that is discussed here or noted down here is absolutely confidential till the Report is placed before the House.

When the matter is pending before the Committee, the person who has made a complaint should not approach any Member, what to speak of the Chairman, or issue any statement whatsoever. Therefore, let us treat as if it has not been circulated.

Shri Gauri Shankar Rai: I have no experience of this Privilege body though I have got enough experience of the body in the State Assembly. I agree, one should not go to the press etc. but arguing the case is different.

Mr. Chairman: You are completely free to state whatever you like.

Shri Gauri Shankar Rai: Please see the Parliamentary Dictionary. This says what are the cases of privilege. This comes under item 'E'. This says 'assault on', 'abuse of' and 'threat against'. If that is done on account of their parliamentary conduct, that is privilege. It is a clear abuse. Under Article 105 no MP shall be liable to any proceedings in any court for anything said or any vote given by him in Parliament. Mrs. Gandhi in her statement to the Press on July 15, 1977 had made imputations and insinuations upon the speech of Shri Charan Singh, the Home Minister. The text of her statement has been published in the newspapers. In her statement she has described the Home Minister's speech in the House as shocking, preposterous and baseless. I would like to mention to you the dictionary meanings of the word preposterous. Chamber's 20th Century says 'utterly absurd'. Longman's Modern English Dictionary says 'comically ridiculous'. Oxford Dictionary says 'foolish and absurd.' Such words can never be used against the behaviour or performance of anybody in the House. As you know our privileges have not been codified and we go by the practice in the House of Commons. The House of Commons and the House of Lords took the matter so seriously that they passed a resolution in both their Houses. The Commons passed this on 12-4-1733. The Lords passed it on 17-5-1765. The resolution passed was this:

> "The assaulting insulting or menacing of any Member of this House, in his coming to, or going from, the House or upon the act of his behaviour in Parliament is a high infringe-

ment of the Privilege of this House, a most outrageous and dangerous violation of the rights of Parliament and a high crime and misdemeanour.'

This is what they passed. After the 18th century there are very rare cases when they did it. This word 'preposterous' is contemptuous and against the dignity of the House. You can't think of a harsher word, a more insinuating or attacking term. She says 'Malicious propaganda deliberately carried on by some leaders of the Janata party'. She says, malicious. She says, deliberate. So, it is a very clear case of contempt of the House. She says the whole idea is outrageous and could occur only to one who himself thinks along those lines. So, I say, this is contempt of the House. You cannot say what a particular Member has said is not true. You can say that it is less than true, you can say that it is uncharitable, baseless, etc. but at the same time it is not a question of explanation. I have gone through many privilege cases. One thing is true that the citizen must have the opportunity to explain. I quite agree that the citizen must have the opportunity in that way. It is not a question of explanation or answering the statement of Mr. Charan Singh or an hon. Member on the floor of the House, but it is a question of allegation, hypothetical allegation that those who think like that talk like that. It is exactly the same.

Mrs. Gandhi has also characterised the speech of the Home Minister as being of a type of misrepresentation and insinuation which are current these days. There could not be a more contemptuous and slanderous insinuation against the speech of an Hon'ble Member in the House. Such reflections on the speech of the Member tend to bring the parliamentary institutions in to odium and contempt and lower the dignity of the House in the eyes of the public. If such things are allowed to go on unchecked, it may strike at the very root of democracy by impairing the efficient functioning of parliamentary institutions. If people lose faith in Parliamentary institutions and their representatives, it may lead to totalitarian tendencies and parliamentary institutions will lose their effectiveness.

Sir, it is very necessary, as I previously submitted, that the House must command respect and there is a history behind it. There was a big fight for civil liberties and democratic institution. I want to know whether we derived all these privileges. In this connection, I would like to quote a paragraph from an Encyclopaedia of Parliament by Norman Wilding & Philip Laundy—page 593.

"The privileges of Parliament were never effectively challenged after the restoration, and freedom of speech was finally confirmed

after the Revolution of 1688 by the Bill of Rights (q.v.) which declared: That the freedom of speech, and debates on proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament."

The Bill of Right has specifically declared in so many words.

S. C. Hawtrey and H. M. Barclay in "A Parliamentary Dictionary" in 1970 Third Edition on Page 84 have stated:

"Any act or omission which either directly obstructs the due proceedings of that House or has a tendency to produce that effect by bringing into contempt, *e.g.* the publication of reflections on the character or conduct of a Member in his capacity as a Member. Such acts are usually described as breaches of privilege . . ."

The learned authors have characterised such acts or omissions as constituting contempt of the House.

The House of Commons in 1701 passed a resolution that to print or publish any books or libels reflecting on the proceedings of the House is high violation of the rights and privileges of the House. May, in his book 'Parliamentary Practice' 19th Edition on page 144, has referred to the resolution of the Commons and has stated that "indignities offered to the House by words spoken or writings published reflecting on its character, or proceedings have been constantly punished by both the Lords and Commons upon the principle that such acts tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them.

"Reflections upon members, the particular individuals not being named or otherwise indicated, are equivalent to reflections on the House."

The imputation and reflection made by Mrs. Indira Gandhi in respect of Shri Charan Singh's speech in the Lok Sabha besides being reflections on the discharge of his duties as a member and being a breach of his privilege, are reflections on the proceedings of the Lok Sabha and have a tendency to bring it into disrepute and lower its dignity in the public eyes and thus Mrs. Gandhi is also guilty of having committed contempt of the Lok Sabha.

Mr. Chairman: Now, if you have anything more to add, you can do so. After that, the Members will seek clarification. If the Members feel like seeking clarification, they can do so.

Shri Gauri Shankar Rai: I have given the dictionary meanings of the word 'outrageous' which has been used by Mrs.

Gandhi. Another word which has been used, which is most objectionable and which is foreign to the Parliamentary life is 'malicious'. It means as per Chambers Dictionary 'mischievous' 'hearing ill-will or spite'. It is not that you do not understand the meaning of the word. But, Sir, such words are not used usually in connection with the Parliamentary proceedings.

Now I have to submit a few things. I will cite my own privilege motion in 1959 which I moved on the floor of the U.P. Assembly. There, the character was the same but it was a technical breach of privilege. The wording at one place was quite debatable. I moved the motion against the teachers of the Lucknow University. There was a marathon discussion for two days from both sides. There I stated "I am moving this privilege motion against the University teachers because the Constitutional niceties are expected from the teachers who teaches privilege." The Committee ultimately found that there was a breach of privilege. Here in this case, if this statement has been made by a person who has no knowledge of the Parliamentary practices and the Constitutional practices, I would not have taken up the matter. I can give you an example. More contemptuous matters appeared in 'National Herald' and the Journalist Mr. Chalapathy Rao wrote them. I actually drafted a privilege motion, but I tore it off because I thought he is a journalist and he might not have understood the Parliamentary practices. I did not move any privilege motion against him. I am of the opinion that one should not be sensitive of his privileges.

But in this case, there have been abuses and repeated abuses. She could have said that what Mr. Charan Singh has said on the floor of the House was not correct, was baseless, was unfortunate, uncharitable; but she should not have used the words monstrous, malicious or preposterous. All these words are not only comments but they are abuses. There can be no worse abuses than these words. Her statement reads "The whole idea is outrageous and could occur only to one who himself thinks along these lines." Is it an explanation? It is an allegation and not an explanation. The words used were not only bad but abusive.

Once again, I refer to my privilege motion in the U. P. Assembly, where I took objection to the use of words 'ill-informed and regrettable' by the teachers of the Lucknow University. In that case, I requested the Committee just to point out to the teachers that they have committed a breach of privilege and I asked them not to proceed further.

But here it is an allegation. One can argue it was a sort of explanation that Mrs. Gandhi gave after the Home Minister's statement on the floor of the House. But, Sir, I would beg to differ from that. It was a political statement, talking of the Scheduled Castes, talking of the socio-economic problems of the country. I submit that this statement is not an explanation of the charges against her, but it was a political statement dealing with many other things. It has also not been addressed to the Chair. To my mind, Sir, the language was most contemptuous. There can be no worse words to abuse the Parliamentary proceedings. The statement was not only to clarify the allegation made by the hon. Home Minister on the floor of the House, but it was much more. The words used were abusive, aggressive and at the same time another allegation has been levelled that the Home Minister is a man with certain propensities who can think of killing the Opposition Leaders. There was a clear positive and specific allegation. In one of the cases an argument was enhanced in the U.P. Assembly 'Why should you be sensitive?' There is a clear answer for that. We are for democracy, we are for Parliamentary proceedings, we are for the privileges. In Canada . . .

Shri B. Shankaranand: It is not a subject for consideration. You have raised it and so you are being heard. You must argue the case.

Shri Gauri Shankar Rai : I am only arguing the case.

Mr. Chairman: We request you to give only those aspects which are very relevant to this case.

Shri Gauri Shankar Rai: I will send you certain quotations tomorrow. In Canada, a member moved a motion of breach of privilege against somebody. He was in the other corner of the country. But immediately he sent a telegram to the Speaker, "I never meant any contempt of the House. But even if a portion of my statement amounts to a small breach of privilege of even one member of the august House, please convey my unconditional apology to the House." So, people are sensitive in the democratic world. So far as this case is concerned, I feel there can be no stronger, clearer case of breach of privilege and contempt of the House.

So far as secrecy is concerned, it is secret so far as the press is concerned. But is there any convention in any part of the world where secrecy has been maintained for a member of the House? I would like to be enlightened about this whether a member can be treated as a stranger. I do not know of any such convention in any Parliament in the world.

Mr. Chairman: We are not guided by conventions of other Parliaments. But so far as our rules are concerned, Rule 275(2) says:

> "No part of the evidence, oral or written, report or proceedings of a committee which has not been laid on the Table shall be open to inspection by any one except under the authority of the Speaker."

Shri Gauri Shankar Rai: I agree that this is the rule. I am not supposed to be less responsible than anybody else.

Mr. Chairman: That is remote from the mind of any member of the Committee and myself. Would the members like to ask any questions?

Dr. V. A. Seyid Muhammed: Apart from the quotations you have no fresh facts to put before the committee?

Shri Gauri Shankar Rai: It is not a criminal case. No other facts can be referred to except the statement and the rules.

Dr. V. A. Seyid Muhammed: You said it is a case for apology.

Shri Gauri Shankar Rai: That is for the committee to decide. I said, the convention is that if such motions are moved alleging that something harsh or hard has been said—it may not even be abusive—generally people approach the Speaker and convey their apology.

Dr. V. A. Seyid Muhammed: You have no proof that it has been or it has not been done.

Shri Gauri Shankar Rai: How do I know it has not been done? If there had been an apology, there would be no question of calling me before this committee. The Speaker himself would have accepted the apology and the matter is not referred to the Privileges Committee. That is the practice.

Shri P. G. Mavalankar: He has explained what is meant by privilege in theoretical terms, but as regards this particular case, I am afraid I could not get much light than what was already known as to where exactly the breach of privilege is involved.

Mr. Chairman: He has categorically said that the words malicious, preposterous, deliberate and outrageous constitute breach of privilege. Secondly, regarding the allegation that was supposed to have been made by the Home Minister on the floor of the House, a counter-allegation has been made in accusing the Home Minister that "it is in the mind of the Home Minister". These are the points according to him, which constitute the breach of privilege.

Shri Hitendra Desai: You said that Mrs. Gandhi's explanation does not merely confine to the statement of Chaudhry Charan Singh, but she said many things also. Is it correct?

Shri Gauri Shankar Rai: Oh Yes. This contemptuous portion is part of the statement which covers many things.

Shri O. V. Alagesan: There are acts of Parliament. The statement of the Home Minister may constitutionally bind the Government but it may not bind the ruling party. Now, here is an Act of Parliament which has the seal of the august House. Now, if this Act is described as the worst kind of legislation, worse than even Rowlet Act in those days, would you consider it an attack on the privilege of the House?

Mr. Chairman: You have raised a question which has no relevance to the issue that we are discussing. Mr. Rai, what according to you is the English translation of the word 'Vichar'?

Shri Gauri Shankar Rai: Thinking.

Mr. Chairman: Can you call it plan?

Shri Gauri Shankar Rai: No.

Mr. Chairman: Do you find anything wrong in the words 'irrationally jumping to the conclusion'?

Shri Gauri Shankar Rai: I just emphasised, that is contemptuous.

Every sentence of that is contemptuous.

Everything is full of motives, insinuations.

Mr. Chairman: How do you positively and clearly substantiate it?

Shri Gauri Shankar Rai: Very clearly it has been said in so many words 'malicious. deliberate, smear campaign' everything.

Mr. Chairman: Can you point out the words which in your opinion, constitute breach of privilege?

Shri Gauri Shankar Rai: She said: "The whole idea is outrageous and could occur only to one who himself thinks along these lines." It means that there are such propensities as ordering the liquidation of all opposition leaders by the Home Minister. That is the meaning. Then she said: "I find that some leaders of the Janata Party Government are determined to pursue their smear

campaign of character assassination inside and outside Parliament so as to denigrate not only me but the Congress Party as a whole." And then 'preposterous, shocking and malicious propaganda deliberately carried out'. There is no doubt about it that it is abusive language. About House proceedings, if such words are uttered, they are not appreciated by you; you feel small, shy of it. My resolution says only three words 'imputation, insinuation and outrageous'. One of them is sufficient to make contempt.

Mr. Chairman: In the statement, she has said that the whole idea is outrageous. She did not say that the statement of the hon. Home Minister is outrageous. Can you find any distinction between the two?

Shri Gauri Shankar Rai: She has said that with reference to earlier sentences. This sentence has a sequence with other sentences. She was talking about the statement of Chaudhuri Charan Singh made on the floor of the House that she wanted to liquidate the Opposition when she was the Prime Minister. In Hindi, it would have been said like this:

उनका यह इरादा है, मेरा इरादा नहीं था, कि अपोजीशन को मरवा दें ।

That is the meaning of it in Hindi.

Mr. Chairman: Can you not say that it has been said in a generalised way?

Shri Gauri Shankar Rai: It has been said with reference to a particular speech made on the floor of the House. If a generality is used in the specific and precise manner, then it is not a generality. You read a sentence along with other sentences, not alone. It is specifically stated, "outrageous thinking". The whole statement is like that.

Mr. Chairman: Can you cite an instance where merely giving a good explanation, a satisfactory explanation, without expressing either regret or apology, the Committee was satisfied with it?

Shri Gauri Shankar Rai: I have gone through many reports. Nowhere in the world you will find a statement containing so many contemptuous utterances made by anyone. You cannot find such a case even in the 17th Century, in the beginning of parliamentary system. Here is a statement with a deliberate motivation using abusive language and making all sorts of allegations, all combined. The apology is the minimum that one can expect at the end of the 20th Century when the parliamentary practices have been fully laid down.

Mr. Chairman: That part you leave to the Committee. Can you cite an example where an explanation offered by the person concerned without expressing regret or apology was considered by the Committee of Privileges as a satisfactory one?

Shri Gauri Shankar Rai: Never in the history it has happened that such allegations, such abusive language, has ever been used, even in the 17th Century. I have gone through all the records. What has happened here is unparallel in the whole parliamentary history. I myself suggested that if a word is spoken or something is said unknowingly, without any motive, then it could be condoned. But here the allegations are repeated one after another in an abusive language.

Mr. Chairman: Suppose the former President of India, Shri V. V. Giri, makes certain observations and the House considers it as a breach of privilege case which is referred to the Privileges Committee. Now, he submits some kind of an explanation without using the word, either 'regret' or 'apology'. In view of the fact that he held a very high position in the country, should an explanation offered by him be considered sufficient instead of insisting upon either his regret or apology? Do you think that the Committee can make a distinction between an ordinary citizen and a high dignitary?

Shri Gauri Shankar Rai: I have already explained it. In such a case, with due regard to our former President, he must have been asked for either an apology or a regret failing which he must have been even punished. But in the case on an ordinary citizen, if he or she does not understand the seriousness of the breach of privilege, if he does not understand the niceties of the parliamentary practice, it is a different matter. He could be condoned. If a person is ignorant about all these things, it can happen. One can understand that. To my mind, if our Prime Minister, Shri Morarji Desai does it, he must be punished. If Shri Giri does it he must be punished. Only they can protect the rights and privileges of Parliament, not a rickshawala. A rickshawala should not be taken seriously. Even in the case of a person who has come to Parliament recently, who does not know what are the parliamentary practices and procedures, the conventions and all that, who does not know the niceties of the rights and the privileges of the House, if he does it, he should not be taken seriously. But a serious view should be taken by the Committee about persons who understand all these things quite well.

Dr. V. A. Seyid Muhammed: If any hon. Member of the House makes an allegation in the House against a person who is not a member of the House saying that such a person was thinking or

having a *vichar* of committing mass murders of all the leaders of the opposition, will that not affect the sensitivity of parliamentary privileges?

Shri Gauri Shankar Rai: I am not here to talk about the merits of the case, about the merits of the speech made. Even if a speech which is made is not fair to a person who is not a member of the House, if it has not been prohibited by the Speaker, it cannot be attacked. It is rather uncharitable and there are no facts to bear it out.

There is a language for it. There are provisions that the letter should have been written, to my mind, to the Speaker saying that the speech made by the hon. Minister was not fair. I would like to explain the conduct. Please convey my feelings to the House. The House is serious about keeping the secrecy and dignity of the Committee. It is most appreciable. The House should approach the Speaker to find out the remedy.

Mr. Chairman: You agree with the right of Mrs. Gandhi to defend herself. But you objected to it.

Shri Gauri Shankar Rai: It was done in an abusive language.

Shri R. Mohanarangam: Is it not the duty of the person who is affected to give proper reply to satisfy Members of his party or the citizens of the country?

Mr. Chairman: He has very categorically explained that. In principle, she has the right to protest, but she has to make a distinction about the language.

Shri R. Mohanarangam: It has to conform to the parliamentary procedure used by the House.

Shri Gauri Shankar Rai: We have to think and take things under certain given circumstances not a particular situation which you deem to be proper. Unfortunately, I am not discussing a thing which I deem to be proper.

Mr. Chairman: We will confine ourselves strictly to the conventions, precedents, and the rules of procedure.

Shri Gauri Shankar Rai: I never meant anything else.

Mr. Chairman: We are very thankful to you. You have really enlightened us on this matter. I think you did a lot of home work.

Shri Gauri Shankar Rai: Thank you.

(The witness then withdrew.)

APPENDIX I

(*See* paras 1, 11 and 12 of the Report)

Text of the Press statement issued by Shrimati Indira Gandhi, former Prime Minister of India on 15-7-1977 as reported in the *Hindustan Times dated* 16-7-1977.

'No plan to kill leaders'

Hindustan Times Correspondent

NEW DELHI, July 15—

*** *** ***

"The following is the text of Mrs. Gandhi's statement:

Since the last Lok Sabha elections, when in all humility I accepted the full responsibility for the heavy reverses suffered by my party, the Congress, in the northern States, I deliberately decided to keep away from politics and from personal and press publicity.

The institution of various commissions, covering a wide range of activities connected with my period in office had led to the expectation that the law would be allowed to take its course.

However, I find that some leaders of the Janata Party Government are determined to pursue their smear campaign of character assassination inside and outside Parliament so as to denigrate not only me but the Congress Party as a whole. The Home Minister's recent statement about an alleged plan (or "thinking") in my Government to shoot down leaders of the Opposition in jail is shocking and preposterous and has no basis whatsoever. This is the very limit in malicious propaganda deliberately carried on by some leaders of the Janata Party. It is difficult to see how anyone could rationally jump to such a wild conclusion on the basis of the theoretical and hypothetical arguments advanced by Mr. Niren De in the Supreme Court to the consequences following from the presidential orders under Article 359. Nothing of this nature was remotely contemplated. The whole idea is

outrageous and could occur only to one who himself thinks along these lines. It is one more instance of the type of misrepresentation and insinuation which are current these days. In fact, Mr. Jayaprakash Narain, Mr. Vajpayee, Mr. Charan Singh himself and other prominent leaders were allowed out on parole on information of ill health.

That we believe in democracy is borne out by the fact that we took the major decision of holding elections which gave our people the opportunity of expressing their views and having a Government of their choice.

In my election speeches I expressed regret for any excesses committed during the emergency and my deep sympathy for those who were subjected to hardships. I also made it clear that such incidents would never be repeated. I have always stood with the people in every kind of difficulty and my heart goes out to those who have suffered in any way.

I hope that the leaders of the Janata Party will at least now address themselves to the more serious and mounting problems affecting different sections of the people, especially industrial labour, farmers, the rural and urban poor, the minorities, the weaker sections and the middle classes. Immediate attention has to be given to the atrocities on Harijans, increasing lawlessness and spiralling prices."

APPENDIX II

(*See* para 5 of the Report)

12, Willingdon Crescent,
New Delhi.

16th September, 1977.

Dear Sir,

With reference to your letter No. 18|2|CI|77 dated August 20, 1977, regarding the question of privilege raised by Shri Gauri Shankar Rai, I wish to state as follows:—

At the sitting of the Lok Sabha on July 13, 1977, the Home Minister made a very serious allegation that there was a plan (*Vichar*) during the Emergency to shoot down top leaders of the Opposition This allegation received wide and prominent publicity both in the Press and through other media. On the following day, the Leader of the Congress Party in the Lok Sabha (Leader of the Opposition), who was a senior colleague of mine in the previous Government, raised the matter in the House and drew attention to what he described as "tendentious and malicious" nature of the Home Minister's statement. He further submitted that "such statements are made only with a view to bring our party into disrepute", and made an appeal to the Prime Minister and the Home Minister to substantiate it if they had got any evidence, or to kindly withdraw it." The Home Minister however reiterated the statement made by him on the previous day.

Keeping in view the great harm and damage the Home Minister's allegation was likely to cause to the integrity of the Government which I had the honour to lead as Prime Minister, I felt that I owed a duty to tell the public that the allegation had no basis whatsoever. This became all the more necessary in the context of the stand taken by the Home Minister even after Shri Chavan, the Leader of the Opposition, had raised that in the House.

In making the public statement, which has been made the subject-matter of the privilege notice, I would submit that it was never my intention to show any disrespect to the Lok Sabha or to any of its members nor to cast any aspersions or insinuation. My state-

ment came out of a genuine feeling of anguish and deep conviction that what I was stating was the truth and if such serious allegations are made in Parliament and they go un-controverted, they may tend to denigrate and destroy our political system and democratic functioning. I would like to assure the Committee, and through it the House, that I did not mean any words or expressions used in my statement to cause an affront to the dignity and respect due to the Lok Sabha or to any of its members. I have had the honour to be a member of Parliament for over 12 years, and, of these, I was the Leader of the Lok Sabha for 10 years. Throughout this period, it has been my endeavour at all times to uphold the high dignity and prestige of Parliament and the rights and privileges of its members. My respect and esteem for Parliament and Parliamentary functioning will always remain a most cherished possession in my public life.

Yours faithfully,
Sd./

(Indira Gandhi)

Shri H. G. Paranjpe,
Chief Legislative Committee Officer,
Lok Sabha Secretariat,
Parliament House, New Delhi.

APPENDIX III

(*See* Para 8 of the Report)

12, Willingdon Crescent
New Delhi-11.

12th December,1977.

Dear Shri Guha,

I thank you and the committee for having provided me with an opportunity of explaining my case. However, owing to prior commitment, I am unable to avail of it.

I need hardly assure you that I did not mean any disrespect for Parliament by my impugned statement. As I have stated earlier I have too deep a respect for this great institution, of which I have had the privilege of being a member for a number of years, to say anything in disparagement of it.

Yours sincerely,
Sd/-
(Indira Gandhi)

Shri Samar Guha,
Chairman, Committee of Privileges,
Parliament House,
New Delhi.